

UNITED STATES DISTRICT COURT

for the
Southern District of Ohio

United States of America
v.

Montague HOWARD

Defendant(s)

Case No. 2:24-mj-57

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of January 30, 2024 in the county of Jefferson in the
Southern District of Ohio, the defendant(s) violated:

Code Section
18 U.S.C. Section 922(a)(6)
18 U.S.C. Section 922(g)(1)

Offense Description
False Statement During the Purchase of a Firearm
Felon in Possession of a Firearm.

This criminal complaint is based on these facts:

See attached Affidavit

☒ Continued on the attached sheet.

Janna Penfield

Digitally signed by Janna Penfield
Date: 2024.02.01 16:12:32 -05'00'

Complainant's signature

Janna Penfield, ATF Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Via FaceTime

Date: February 2, 2024

City and state: Columbus, Ohio

Elizabeth A. Preston Deavers
Elizabeth A. Preston Deavers
United States Magistrate Judge



AFFIDAVIT

Your Affiant, Janna Penfield, deposes and states:

1. Your Affiant is a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”), United States Department of Justice, and has been so employed since August 2018. Prior to becoming a Special Agent with ATF, I was a United States Probation Officer with the United States Probation Department through the Southern District of Ohio from October 2014 through January 2018. Additionally, from August 2007 through October 2014, I was a Parole Officer through the State of Ohio, which included a special assignment position with the United States Marshal Service as a Task Force Officer on the Southern Ohio Fugitive Apprehension Strike Team. I have completed the Federal Criminal Investigator Training Program and the ATF Special Agent Basic Training at the Federal Law Enforcement Training Center in Glynco, Georgia. I have also completed the Initial Pretrial and Probation Training Program at the Federal Law Enforcement Training Center in Charleston, South Carolina, and the State of Ohio Parole Academy in Columbus, Ohio. In addition to the firearms, arson, and explosives-related training received in these courses, Your Affiant has also conducted and participated in numerous investigations involving firearms, firearms trafficking, and narcotics.

2. This Affidavit is being submitted for the limited purpose of establishing probable cause that Montague HOWARD has violated Title 18 United States Code Section 922(g)(1), Felon in Possession of a Firearm; and Title 18 United States Code Section 922(a)(6), knowingly making any false or fictitious oral or written statement to a firearms dealer with

respect to any fact material to the lawfulness of the acquisition or disposition of firearms and ammunition. The statements contained in this Affidavit are derived from information provided to me by other law enforcement agencies; and from my review of records and reports relating to the investigation as well as my own investigation of this matter. This Affidavit does not include every fact known to me regarding this investigation but seeks to summarize relevant information.

A. PROBABLE CAUSE

3. On or about January 30, 2024, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) learned a notice from the National Instant Criminal Background Check System (NICS) was completed regarding Montague HOWARD (a black male; DOB: 07/30/1979) attempting to purchase a firearm from Cash America Pawn Shop located at 2134 Sunset Boulevard, Steubenville, Ohio. HOWARD completed the ATF Form 4473 in its entirety and signed the form as the buyer.

4. By way of background, pursuant to federal law and regulation, the FFL is required to obtain a completed ATF Form 4473 (the “Firearms Transaction Record”) from the actual purchaser of a firearm before the FFL can transfer or sell a firearm to any unlicensed person. 18 U.S.C. § 923(g); 27 C.F.R. § 478.124. ATF Form 4473 gathers a host of information about the purchaser, including information to determine if the purchaser may lawfully possess a firearm. FFLs also may not transfer a firearm to an unlicensed person without first conducting a background check through the National Instant Check System (“NICS”), and recording the information on the ATF Form 4473. 18 U.S.C. § 922(t); 27 C.F.R. § 478.102. The NICS process is run by the Federal Bureau of Investigation (“FBI”) and provides the mechanism through which FFLs determine whether a particular purchaser is

prohibited from possessing firearms. Providing false or misleading information to an FFL in connection with the acquisition of a firearm, e.g. lying on the ATF 4473, is violation of federal law. 18 U.S.C. § 922(a)(6). Additional information asked on the ATF 4473 includes the following question: *“have you ever been convicted in any court, including a military court, of a felony, or any other crime for which the judge could have imprisoned you for more than one year, even if you received a shorter sentence including probation? (s) (ATF Form 5300.9A)?”* Marking no to the above question, and then attempting to have the firearm transferred the buyer, qualifies as an attempted purchase in violation of 18 U.S.C. § 922(a)(6). HOWARD checked the box “no” in response to this question claiming that he is not a convicted felon, when in fact HOWARD has been convicted of a federal felony as outlined in paragraph #6 of this Affidavit.

5. Cash America Pawn Shop is a Federal Firearms Licensee (FFL) located at 2134 Sunset Boulevard, Steubenville, Ohio. While inside the FFL, while HOWARD was communicating with representatives at the FFL, the customer service representative asked HOWARD if he wanted to handle the firearm he was inquiring about (later determined to be a Taurus, model G3C, 9mm pistol bearing serial number ABM294333). At that time, HOWARD seemed reluctant and initially hesitated to handle the firearm then relented and ultimately ended up handling and/or manipulating the firearm in the store. This was captured on video surveillance as depicted below. After completing and signing the ATF Form 4473, the FFL completed the NICS background check and was notified immediately that HOWARD was denied the purchase of the aforementioned firearm based upon being convicted of a felony offense. HOWARD was then advised by the FFL that he was denied the purchase of the firearm and HOWARD left the FFL.



6. HOWARD is currently on Supervised Release through the United States District Court for the Southern District of Ohio after being convicted on September 21, 2021, in the Western District of Pennsylvania of Armed Bank Robbery (Docket Number 2:20CR26-1), wherein HOWARD received a sentence of imprisonment of 34 months imprisonment. Following his release from imprisonment, HOWARD began his term of supervised release on May 13, 2022 as a Rule 40 transferee. Therefore, HOWARD is prohibited from possessing a firearm and/or ammunition.

B. January 31, 2024 – INTERSTATE NEXUS DETERMINATION

7. On or about January 31, 2024, Special Agent Janna Penfield spoke with ATF Interstate Nexus Expert Special Agent Teresa Petit who was informed about the aforementioned firearm, and she provided a verbal determination that Taurus firearms are not manufactured in the State of Ohio. Thus, Taurus, model G3C, 9mm pistol bearing serial number ABM294333 must have traveled in interstate commerce to be found in the State of Ohio.

C. CONCLUSION

8. Based upon the above-listed facts and circumstances, Your Affiant believes and asserts that there is probable cause to believe that on or about January 30, 2024, Montague HOWARD did unlawfully, knowingly, possess a firearm in and affecting interstate commerce after having been convicted of a crime punishable by imprisonment for a term exceeding one year, in violation of Title 18, United States Code, Section 922(g)(1); and knowingly making any false or fictitious oral or written statement to a firearms dealer with respect to any fact material to the lawfulness of the acquisition or disposition of firearms and ammunition., in violation of Title 18, United States Code, Section 922(a)(6).

9. The above violation was committed in the Southern District of Ohio, Eastern Division. Your Affiant requests that an arrest warrant be issued for Montague HOWARD.

Janna Penfield Digitally signed by Janna Penfield
Date: 2024.02.01 16:12:16 -05'00'

Janna Penfield, Special Agent
Bureau of Alcohol, Tobacco, Firearms and
Explosives

This Affidavit was sworn to by the Affiant by telephone after a PDF was transmitted by email, per Crim R. 3, 4(d), and 4.1 on this 2d day of February 2024.


Elizabeth A. Preston Deavers
United States Magistrate Judge

 Preston-Deavers